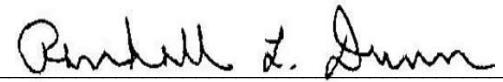


1 Below is the Court's Report and Recommendation.
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10 RANDALL L. DUNN
11 U.S. Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF OREGON

In Re:) Bankruptcy Case
Rebecca Campos,) No. 14-33295-rlld7
)
)
Debtor.)
Rebecca Campos,) Adv. Proc. No. 14-03241-rlld
)
)
Plaintiff,)
)
v.)
)
Bluestem Brands, Inc., and)
WebBank,) REPORT AND RECOMMENDATION
) RE: WITHDRAWAL OF THE
Defendants.) REFERENCE
)

Chapter 7 Debtor, Plaintiff herein, filed an adversary proceeding seeking damages pursuant to § 362(k) for Defendants' alleged willful violation of the automatic stay in attempting to collect a debt that debtor contends is the subject of her discharge previously entered in her chapter 7 bankruptcy case. Plaintiff seeks class action status for this litigation pursuant to Fed. R. Civ. P. 23.

Defendants have filed a motion to compel arbitration as provided by

1 the credit agreement which forms the basis of the relationship between
2 the parties. Alternatively, Defendants seek dismissal of the adversary
3 proceeding complaint.

4 Defendants' motion raises issues regarding substantial and
5 predominant state law and federal law issues independent of any
6 bankruptcy issues raised in the adversary proceeding complaint. First,
7 the motion raises state law questions regarding the scope of the
8 arbitration clause, which is purely a matter of state contract law. See
9 Northern Pipeline Construction Co. v. Marathon Pipe Line Co. (In re
10 Marathon Pipeline Co.), 458 U.S. 50 (1982). Second, although the scope
11 and application of § 362 of the Bankruptcy Code raised by the Plaintiff
12 is a fundamental bankruptcy issue within my core jurisdiction pursuant to
13 28 U.S.C. § 157(b)(2), the scope and application of the Federal
14 Arbitration Act, 9 U.S.C. § 1, et seq., raised by the Defendants is a
15 fundamental issue of federal law that is not within my core jurisdiction.

16 Defendants' have expressly refused to consent to the entry by the
17 bankruptcy court of any final order in this adversary proceeding.

18 If only legal issues are implicated in the adversary proceeding, any
19 determination I might make would require two levels of appeal to reach
20 the Ninth Circuit. In light of Defendants' explicit unwillingness to
21 consent to my entry of any final order in this adversary proceeding, any
22 findings of fact I might make would be subject to de novo determination
23 at the district court level. Additionally, Stern v. Marshall, 564 U.S. 2
24 (2011), raises ambiguity even as to any core jurisdiction I might have in
25 these circumstances.

26 I therefore recommend pursuant to LBR 9033-1 and LR 2100-4 that the

1 reference be withdrawn, based upon principles of judicial economy. See
2 Security Farms v. Int'l Brotherhood of Teamsters, 124 F.3d 999, 1008-09
3 (9th Cir. 1997).

4 # # #

5 Michael Fuller
6 Kelly Donovan Jones
7 Brandy A. Sargent
Aaron D. Van Oort

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